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Attorneys for Federal Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BARTELL RANCH LLC, *et al.*,
Plaintiffs,
v.

ESTER M. MCCULLOUGH, *et al.*,
Defendants.

WESTERN WATERSHEDS PROJECT,
et al.,
Plaintiffs,
v.

UNITED STATES DEPARTMENT OF
THE INTERIOR, *et al.*,
Defendants.

Case No. 3:21-cv-80-MMD-CLB
Related Case No. 3:21-cv-103-MMD-CLB
(Consolidated)

**FEDERAL DEFENDANTS'
RESPONSE TO THE BURNS PAIUTE
TRIBE'S MOTION TO INTERVENE**

1 Federal Defendants do not oppose the Burns Paiute Tribe's motion to
2 intervene in the above captioned case, but reserve the right to assert any defenses or
3 jurisdictional or procedural challenges to the Burns Paiute Tribe's claims. In doing
4 so, Federal Defendants rely on the representation of counsel for the Burns Paiute
5 Tribe that, if permitted to intervene in a timely fashion, it does not intend to file a
6 separate preliminary injunction motion.

7 With respect to the existing case management schedule, Federal Defendants
8 note that the Burns Paiute Tribe and other Plaintiff-Intervenors have raised claims
9 under the National Historic Preservation Act—claims not previously asserted in this
10 action, and by which they challenge the sufficiency of an administrative process
11 conducted under a separate statute than the claims previously asserted in this action.
12 In light of their intervention, Federal Defendants must now respond to two
13 additional, separate complaints; defend against a second preliminary injunction
14 motion; and compile a second administrative record. While Federal Defendants
15 appreciate the Burns Paiute Tribe's and current Plaintiffs-Intervenors' willingness to
16 adhere to the existing case management schedule, Federal Defendants are
17 evaluating the timeframe on which they can prepare the administrative record
18 pertaining to the new NHPA claims and will propose to all counsel a schedule for
19 service of that record and related filings, and which also addresses impacts on the
20 existing briefing schedule from the expansion of the claims in this action, if any.

21
22 Respectfully submitted this 5th day of August, 2021.

23 TODD KIM
24 Acting Assistant Attorney General
25 United States Department of Justice
26 Environment and Natural Resources Div.

27 /s/ Arwyn Carroll
28 ARWYN CARROLL (MA Bar 675926)
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